

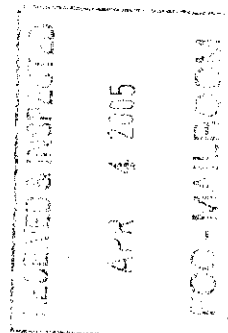
C4C203



Federal Communications Commission  
Washington, D.C. 20554

March 30, 2005

A. Wray Fitch III, Esq.  
c/o Laramie Mountain Broadcasting, LLC  
Gammon & Grange, P.C.  
8280 Greensboro Drive, 7<sup>th</sup> Floor  
McLean, Virginia 22102-3807



Dear Counsel:

This letter refers to the petition for rule making you filed on behalf of Laramie Mountain Broadcasting, LLC, requesting the relocation of reference coordinates for Channel 289C2 at Hayden, Colorado to eliminate a short-spacing with a one-step upgrade application for Station KKHI-FM, Timnath, Colorado.<sup>1</sup>

Your petition is unacceptable for consideration at this time. Specifically, the petition for rulemaking requesting Channel 289C2 at Hayden, Colorado was returned by letter as unacceptable for consideration.<sup>2</sup> As such, Channel 289C2 was never allotted to Hayden, Colorado. Moreover, Station KJAC, formerly Station KKHI-FM, was granted a construction permit, BMPH-20031027AAB, to specify operation on Channel 288C1 in lieu of Channel 288C2 at Timnath, Colorado on April 8, 2004.

We, however, note that it is the Commission policy not to change reference coordinates for vacant allotments in the course of a rulemaking proceeding in the absence of other changes in the FM Table of Allotments or to entertain rulemaking petitions solely to change reference coordinates.<sup>3</sup> To this end, the Commission adopted this policy to protect the integrity of the FM Table of Allotments and to ensure that a vacant allotment is not compromised by limiting the availability of transmitter sites. When a party only seeks a change in an allotment's reference coordinates in the course of an FM allotment rulemaking proceeding, it is not possible to seek comment on this type of proposal because no change in the rules is proposed therein.<sup>4</sup>

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<sup>1</sup> See BMPH-20031027AAB.

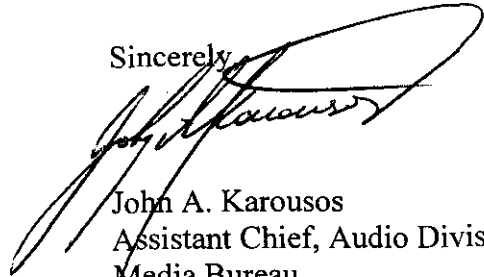
<sup>2</sup> See Letter to Mr. Dana J. Puopolo (Assistant Chief, Audio Division, Media Bureau, March 4, 2004).

<sup>3</sup> See *Chatom, Alabama*, 10 FCC Rcd 7725 (1995) and *Grenada, Mississippi*, 7 FCC Rcd 4838 (MMB 1992).

<sup>4</sup> See *Fair Bluff, North Carolina*, 11 FCC Rcd 12662 (MMB 1996).

For the reasons stated above, we are returning your petition for rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Karousos", written over the word "Sincerely,".

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau

Enclosure

BEFORE THE  
Federal Communications Commission

WASHINGTON, D.C. 20554

ORIGINAL

RECEIVED - FCC

JAN - 9 2004

Federal Communication Commission  
Bureau / Office

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Hayden, Colorado)

RM-

RECEIVED

JAN - 9 2004

Federal Communication Commission  
Office of the Secretary

TO: Chief, Allocations Branch

PETITION FOR RULEMAKING

Laramie Mountain Broadcasting, LLC ("LMB") requests the allocation of Channel 289C2 to Hayden, Colorado as its third local commercial FM allotment. The Commission's database indicates that 289C2 has been reserved for Hayden, Colorado, presumably as a result of an earlier filed Petition for Rulemaking.<sup>1</sup> LMB requests allocation of Channel 289C2 to Hayden, Colorado utilizing a new allotment point which would result in significant public interest benefits.

As detailed more specifically in the attached Technical Statement, LMB is aware that the Commission has reserved in its database Channel 289C2 for Hayden, Colorado. LMB however is unaware of any Notice of Proposed Rulemaking yet issued for the allocation to Hayden. LMB requests that in issuing a Notice of Proposed Rulemaking for allocation of 289C2 to Hayden, Colorado that the Commission specify a new allotment point at 40° 36' 45" N, 107° 18' 02" W (the "New Allotment Point")

There are significant public interest benefits in the New Allotment Point as opposed to the allotment point at 40° 40' 14" N, 105° 24' 24" W proposed in the Commission's database. First, the New Allotment Point would eliminate short spacing with a pending one step upgrade application filed by LMB for KKHI-FM, Timnath, Colorado (File No. BMPH-20031027AAB). The one step upgrade from 288C2 to 288C1 proposed by KKHI-FM in Timnath, Colorado would result in

<sup>1</sup> Petition for Rulemaking filed by Dana J. Puopolo requesting allocation of Channel 289C2 to Hayden, Colorado

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additional service to many thousands of additional people. Secondly, the New Allotment Point is located further west, which will require less of a site restriction than is currently proposed for Channel 289C2. Lastly, the New Allocation Point proposed by LMB will also eliminate the small amount of short spacing with KALC, Denver, Colorado on Channel 290C, and KWGL, Ouray, Colorado on Channel 289C resulting from the current allotment point and will allow these stations more of a spacing buffer.

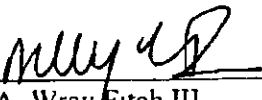
The attached Technical Statement fully supports the allotment of channel 289C2 to Hayden, Colorado at the New Allotment Point. LMB respectfully requests that Channel 289C2 be allocated at Hayden, Colorado at proposed allotment point 40° 36' 45" N, 107° 18' 02" W.<sup>2</sup> LMB proposes that the Commission's Table of Allotments 73.202(b) be amended as follows:

	<u>Present</u>	<u>Proposed</u>
Hayden, Colorado	230C3, 297C2	289C2, 297C2, 230C3

In the event Channel 289C2 is allocated to Hayden, Colorado, LMB will participate in an auction for the station, file an application for a construction permit and, if its application is granted, will build the station.<sup>3</sup>

Respectfully submitted,

**LARAMIE MOUNTAIN BROADCASTING, LLC**

By   
A. Wray Fitch III  
Its Counsel

**GAMMON & GRANGE, P.C.**  
8280 Greensboro Drive, 7th Floor  
McLean, VA 22102-3807  
(703) 761-5000

January 9, 2004

[K:\0524\Petition for Rulemaking6 awf]

<sup>2</sup> LMB also supports allotment of 289C2 to Hayden using an alternate allotment point provided such allotment point meets spacing requirements for the proposed allotment of 288C1 at Timnath, Colorado.

<sup>3</sup> As also demonstrated in the attached Technical Statement, in the event the Commission determines that it does not wish to move the proposed allotment point for Channel 289C2, LMB has identified an alternate substitute C2 channel available for Hayden, Colorado (Channel 265C2).

## TECHNICAL STATEMENT

This technical statement is filed on behalf of Laramie Mountain Broadcasting, LLC ("LMB") supporting the allotment of channel 289C2 to Hayden, Colorado and to support the one-step upgrade of KKHI-FM Timnath, Colorado from channel 288C2 to channel 288C1.

LMB supports the allotment of channel 289C2 to Hayden, Colorado as its third local commercial FM allotment. Figure 1 of this statement shows that channel 289C2 can be allotted to Hayden, Colorado and meet all of the spacing requirements under 73.207 of the Commission's rules, with the exception of a new proposed allotment at Hayden, Colorado. While the Commission has not yet released a Proposed Rule Making to allot channel 289C2 to Hayden, Colorado, the channel study shows that the Commission has reserved channel 289C2 for Hayden, Colorado in its database. LMB assumes that this reservation is in response to a Petition for Rule Making for a new allotment for Hayden. If this is the case, LMB supports this proposed rulemaking to allot channel 289C2 to Hayden, providing that it does not interfere with the planned one-step upgrade of KKHI-FM at Timnath, Colorado from channel 288C2 to Channel 288C1.

Figure 2 shows the current proposed allotment point for Hayden, Colorado in the Commission's database. As can be seen, this allotment point is short spaced with the pending one-step upgrade application filed by LMB for KKHI-FM Timnath, Colorado, file number BMPH-20031027AAB.

The proposed allotment point for channel 288C1 at Timnath, Colorado is located at 40 - 40 - 14 N, 105 - 24 - 24 W. Figure 3 shows the spacing study for channel

288C1 at Timnath, Colorado This study shows the short spacing with the new proposed allotment at Hayden, Colorado LMB proposes a new allotment point located further west for Hayden, Colorado, which will actually require less of a site restriction than is currently proposed for channel 289C2 at Hayden. A new allotment point will increase the current spacing between the two allotment points from 146.5 kilometers to 160.3 kilometers. The required spacing between the two allotment points is 158 kilometers, class C2 and a class C1, first adjacent channel

It also shows a short spacing with the licensed facilities of KREO Pine Bluffs, Wyoming on channel 287A and the licensed facilities of KRRR Cheyenne, Wyoming on channel 285A. However, both of these two stations are under common ownership with LMB, and both stations have received Construction Permits (BPH-20030707ADZ for KRRR and BPH-20030605ACW for KREO) to move to conforming transmitter locations for the proposed allotment point for channel 288C1 at Timnath, Colorado. Both KREO and KRRR are operating from these new (CP) tower sites and have filed applications for a new license, FCC form 302-FM (KRRR, BLH-20031125AIV, and KREO BLH-20031125AJQ).

The allotment point spacing study for channel 288C1 at Timnath also shows a short spacing with an application filed by KSKX(FM) Security, Colorado. This application is specifying processing under 73.215 of the commission's rules. It should be noted that the allotment point for channel 288C2 at Security, Colorado specified in the KSKX application meets the spacing requirements under 73.207 for the proposed allotment point for channel 288C1 at Timnath, Colorado.

Thus, all of the apparent short spacing issues for the allotment point for channel 288C1 at Timnath, Colorado have been addressed.

LMB supports the new allotment at Hayden, Colorado, if a new allotment point can be specified for channel 289C2 at Hayden which allows for the upgrade of KKHI-FM at Timnath, Colorado.

LMB proposes the allotment point for Hayden, Colorado be located at: 40 - 36 - 45 N. 107 - 18 - 02 W. This allotment point will actually require less of a site restriction than the current allotment point proposed in the commission's database. The current allotment point proposed is located 15 kilometers northeast of the community of Hayden. The allotment point proposed by LMB is located 13.9 kilometers north of Hayden.

It should also be noted that the current allotment point for Hayden is 0.26 kilometers short spaced with KALC Denver, Colorado on channel 290C. It is also 0.14 kilometers short spaced with KWGL Ouray, Colorado on channel 289C. While this small amount of short spacing is within the commission policies on rounding to the nearest kilometer, it will needlessly reduce the future spacing flexibilities of these two stations. The proposed allotment point for Hayden by LMB will give both of these stations more of a spacing buffer, and as mentioned, actually require less of a site restriction needed for channel 289C2 at Hayden.

If for some reason the commission does not wish to move the proposed allotment point for Hayden for channel 289C2, LMB has identified an alternate substitute C2 channel available for Hayden, Colorado. Channel 265C2 can be allotted to Hayden,

Colorado if necessary. Figure 4 shows a channel spacing study showing that channel 265C2 can be allotted to Hayden, Colorado if necessary.

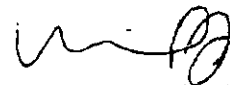
LMB proposes the following changes to the Commission's table of allotments as follows

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Hayden, Colorado	230C3, 297C2	230C3, 289C2, 297C2
Timnath, Colorado	288C2	288C1

LMB supports the allotment of channel 289C2 to Hayden, Colorado at its proposed allotment point, or at an allotment point that meets spacing requirements for the proposed allotment point for channel 288C1 at Timnath, Colorado. It also supports the upgrade of the allotment of channel 288C2 at Timnath, Colorado to channel 288C1.

LMB has already filed a one-step upgrade application for KKHI-FM Timnath, Colorado to specify operation on channel 288C1. LMB will also file an application to operate a new station at Hayden, Colorado if the Commission decides to allot channel 289C2 at Hayden, Colorado, during any window filing period or auction conducted by the Commission.

Respectfully Submitted.



Victor A. Michael, Jr.  
Technical Consultant  
Laramie Mountain Broadcasting, LLC  
6807 Foxglove Drive  
Cheyenne, WY 82008  
307-778-9318  
vicmichael@aol.com

January 2, 2004



FIGURE 1 - New Proposed Allotment Point  
Hayden, Colorado - Channel 289C2

REFERENCE  
40 36 45 N  
107 15 02 W

CLASS - C2  
Current Spacings

DISPLAY DATES  
DATA 01-02-04  
SEARCH 01-03-04

Channel 289 - 105.7 MHz

Call	Channel	Location	Dist	Azi	FCC	Margin
RADD	ADD 289C2	Hayden	CO 14.23	100.1	190.0	-175.77
KWGL	LIC 289C	Ouray	CO 249.08	187.5	249.0	0.08
KKEHFM	APP-N 288C1	Timnath	CO 166.95	89.2	158.0	8.95
KKEHFM	APP-N 288C1	Timnath	CO 166.95	89.2	158.0	8.95
KKEHFM	APP-N 288C1	Timnath	CO 166.95	89.2	158.0	8.95
KALC	LIC-D 290C	Denver	CO 201.10	118.5	188.0	13.10
KALC.C	CP 290C	Denver	CO 201.20	118.5	188.0	13.20
KKEHFM	CP-N 289C2	Timnath	CO 166.95	89.2	130.0	36.95
KREX	LIC-N 292C3	Kremmling	CO 98.94	132.8	56.0	42.94
KZPS	LIC 287C	Rifle	CO 148.91	208.5	105.0	43.91
KKEHFM	LIC-N 288C3	Laramie	WV 173.38	63.7	117.0	56.38
KLCYFM	APP-N 288C2	Vernal	UT 223.27	268.4	130.0	13.27

FIGURE 2 - Current Proposed Allotment Point  
Hayden, Colorado - Channel 289C2

REFERENCE	CLASS - C2	DISPLAY DATES
0 33 24 N	Current Spacings	DATA 01-02-04
10 09 18 W		SEARCH 01-05-04

----- Channel 289 - 105.7 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
RACD	ADD 289C2	Hayden	CO 0.00	0.0	190.0	-190.00
ZKXIFM	APP-N 288C1	Timnath	CO 152.99	88.3	158.0	-5.01
KX- FM	APP-N 288C1	Timnath	CO 152.99	88.3	158.0	-5.01
KXIFM	APP-N 288C1	Timnath	CO 152.99	88.3	158.0	-5.01
KALC	LIC-D 290C	Denver	CO 187.64	120.0	188.0	-0.36
KALC.D	CP 290C	Denver	CO 187.74	119.9	188.0	-0.26
KWGL	LIC 289C	Ouray	CO 248.86	190.9	249.0	-0.14
ZKXIFM	CP -N 288C2	Timnath	CO 152.99	88.3	130.0	22.99
KAKN	LIC-N 292C3	Kremmling	CO 87.29	138.0	56.0	31.29
KXIFM	LIC-N 288C3	Laramie	WY 162.12	60.8	117.0	45.12
ZKX	LIC 28 C	Rifle	CO 154.04	213.7	105.0	49.04

FIGURE 3- Proposed Allotment Point  
KKHI-FM Timnath, Colorado - Channel 288C1

REFERENCE

40 40 14 N  
105 04 24 W

CLASS = C1

Current Spacings

DISPLAY DATES

DATA 01-02-04

SEARCH 01-05-04

----- Channel 288 - 105.5 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
KKHIFM	APP-N 288C1	Timnath	CO	8.90	131.5	245.0	-236.10
KKHIFM	APP-N 288C1	Timnath	CO	8.90	131.5	245.0	-236.10
KKHIFM	APP-N 288C1	Timnath	CO	8.90	131.5	245.0	-236.10
KKHIFM	CF -N 288C2	Timnath	CO	8.90	131.5	224.0	-215.10
KKHIFM	LIC-N 288C3	Laramie	WY	68.58	357.4	211.0	-142.42
KAD	ADD 288C1	Hayden	CO	146.50	267.0	158.0	-11.50
KPTO	LIC 287A	Pine Bluffs	WY	124.89	63.4	133.0	-8.11
KSKXA	APP-N 288C2	Security	CO	218.90	167.5	224.0	-5.10
KSKXA	APP-Z 288C2	Security	CO	218.90	167.5	224.0	-5.10
KRRR	LIC 285A	Cheyenne	WY	70.39	44.2	75.0	-4.41
RDCI	DEL 285A	Cheyenne	WY	70.39	44.2	75.0	-4.41
RADD	ADD 288C2	Security	CO	223.94	167.2	224.0	-0.06
KATC	LIC-- 290C	Denver	CO	105.10	172.1	105.0	0.10
KALOC	CF 290C	Denver	CO	105.14	172.0	105.0	0.14
KRRR.C	CF -N 285C2	Cheyenne	WY	79.23	49.1	79.0	0.23
KREO.C	CF 287A	Pine Bluffs	WY	136.39	59.3	133.0	3.39
RADD	ADD 285C2	Cheyenne	WY	85.50	39.9	79.0	6.50
KSKY	LIC 288C3	Security	CO	218.90	167.5	211.0	7.90
RDEL	DEL 288C3	Security	CO	218.90	167.5	211.0	7.90
KXKLFM	LIC 286C	Denver	CO	120.05	171.9	105.0	15.05
ALLO	VAC 288C3	Genoa	CO	230.00	127.8	211.0	19.00
RDEL	DEL 288C3	Genoa	CO	230.00	127.8	211.0	19.00
ALLO	VAC 289A	Wheatland	WY	158.33	13.7	133.0	25.33
KRKSFM	LIC-D 234C	Lafayette	CO	66.62	176.1	41.0	25.62
KPFX	LIC 289C3	Sterling	CO	193.92	93.8	144.0	49.92
ALLO	VAC 288A	Mills	WY	253.88	342.0	200.0	53.88
KZ49	LIC 287C	Rifle	CO	269.96	240.2	209.0	60.96
KRKSFM	CF 234C	Lafayette	CO	110.65	183.5	41.0	69.65

FIGURE 4 - Alternate Channel Allotment Point  
Hayden, Colorado - Channel 265C2

REFERENCE  
40 38 32 N  
104 08 22 W

CLASS = C2  
Current Spacings

DISPLAY DATES  
DATA 01-02-04  
SEARCH 01-05-04

Channel 265 - 100.9 MHz


Call	Channel	Location	Dist	Azi	FCC	Margin
KTUN	LIC 266C	Eagle	CO 105.05	164.0	105.0	0.00
PDFT	DFI 266C	Eagle	CO 105.05	164.0	105.0	0.00
KHCO.C	CF 211C3	Hayden	CO 17.11	218.1	17.0	0.11
KOST	LIC-D 266C	Denver	CO 191.59	121.7	188.0	3.59
RADA	ADD 266C1	Dinosaur	CO 164.74	254.8	158.0	6.74
ALLO	VAC 265A	Bairoil	WY 180.78	349.1	166.0	14.78
ADBL	DEL 266A	Wamsutter	WY 133.45	328.8	106.0	27.45
ALLO	VAC 266A	Wamsutter	WY 133.45	328.8	106.0	27.45
ALLO	VAC 262C	Sinclair	WY 133.56	0.9	105.0	28.56
KOLZ	LIC 264C1	Cheyenne	WY 186.70	73.6	158.0	28.70
ALLO	VAC 265C3	Reliance	WY 206.58	304.1	177.0	29.58
KADD	ADD 265C3	Reliance	UT 206.58	304.1	177.0	29.58
RADD	ADD 265C2	Gunnison	CO 225.75	177.3	190.0	35.75
KXOZFM	LIC 264C1	Grand Junction	CO 222.91	218.4	158.0	64.91

**CERTIFICATE OF SERVICE**

I, Millie Adams, in the law offices of Gammon & Grange, P.C., hereby certify that I have sent this 9th day of January, 2004, by first-class, postage prepaid, U.S. Mail, copies of the foregoing PETITION FOR RULEMAKING to the following:

Mr John A Karousos  
Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 3-A266  
Washington, D C 20554

Dana J. Puopolo  
2134 Oak Street, Unit C  
Santa Monica, CA 90405

  
\_\_\_\_\_  
Millie Adams